

REMARKS

In this first office action after the present RCE, the examiner addressed applicant's arguments in paragraph 2 of the office action. Specifically, he indicated that the examiner disagreed with applicant's submission for two reasons. The first was that the claim was so broad that there was no claim limitation that teaches where exactly in the network the monitoring is taking place.

It is believed that it is not significant to the present invention where the monitoring physically takes place. The significant aspect is that the monitoring takes place after it receives the broadcast. The physical location is not significant. The significance is that there is a single monitoring station which receives the broadcast and documents the information based upon receipt of the broadcast.

As was previously pointed out in the Declaration submitted by Professor Memon, regardless of whether anyone else is tuned in and whether there is even a single user receiving the broadcast, or whether a particular user has requested and downloaded the broadcast, the fact that it has been broadcast is sufficient for the present invention. The present invention receives that broadcast after it has been broadcast publicly regardless of whether any other user has requested or received it. However, the physical location of the monitor of the present invention is not significant so long as it is located in order to receive the broadcast.

The examiner has also objected to the language "and unrelated to the number of users constituting the audience member of the public". The examiner indicated that this was insufficient to distinguish the present invention. Additionally, the examiner rejected the claims

under 35 U.S.C. 112 in that this same language was allegedly unsupported by the specification. This rejection was contained in paragraph 3 of the office action.

This language has been cancelled and instead the claim has been amended to more specifically point out the argument presented previously in the Declaration of Professor Memon. Namely, that regardless of whether any user has requested or has received the actual broadcast, the present invention stores and correlates the information relating the broadcast.

It is believed that this present amendment is supported by the specification as stated in the attached Supplemental Declaration of Professor Memon. Professor Memon points out that the location is insignificant and the significance is that the broadcast is simply received by the monitoring means. He has particularly pointed out numerous locations in the present specification where he, as one skilled in the art, reading the specification finds support and understanding for the language of the present claim. As one skilled in the art reading the specification, he is the individual determinative of whether there is adequate support for particular language as he, one skilled in the art, understands the specification accordingly.

The examiner has further relied on specific locations of the Ginter prior art reference, particularly col. 3, lines 24-33 and col. 147, lines 34-64. These have been carefully reviewed both by counsel and Professor Memon and unfortunately we cannot find the alleged indicated support that the examiner relies upon. As Professor Memon, one skilled in the art points out, neither of these locations relate to even monitoring a broadcast and clearly not with a location where the usage is being monitored, as the examiner suggests.

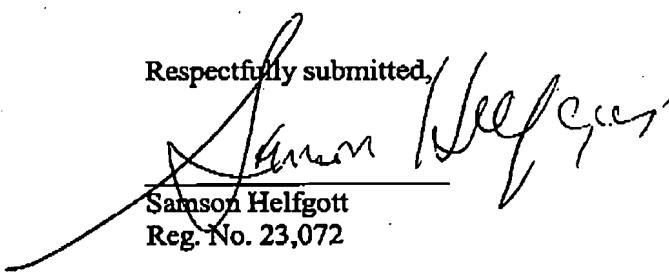
In all other aspects, the current rejection is identical to that previously presented by the examiner and to which applicant has previously responded and which the previous Declaration

has addressed. Accordingly, all those previous arguments, including the previous Declaration is herein incorporated by reference in response to the repeated identical rejections stated by the examiner.

It is respectfully contended that the present claim clearly distinguishes over the references and responded to all of the rejections raised by the examiner.

Any fee due with this paper may be charged to Deposition Account No. 50-1290.

Respectfully submitted,

  
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